

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 23-21364-CIV-MARTINEZ-BECERRA

DAVID ARNOLD GRAY,

Plaintiff,

vs.

MIAMI-DADE COUNTY and
DANIELLA LEVINE CAVA,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

THIS MATTER was referred to the Honorable Jacqueline Becerra, United States Magistrate Judge, for a Report and Recommendation ("R&R") on (1) Defendants' Motion to Dismiss, (ECF No. 12); (2) Plaintiff's Application for Clerk's Entry of Default, (ECF No. 15); and (3) Plaintiff's Motion for Leave to Amend, (ECF No. 11). Judge Becerra filed an R&R recommending that the Motion to Dismiss be granted in part and denied in part and that the Motion for Default and the Motion for Leave to Amend be denied as moot. (ECF No. 18.) The Court has reviewed the entire file and record, and notes that no objections have been filed.

Accordingly, Plaintiff's Amended Complaint is dismissed without prejudice as a shotgun pleading, (ECF No. 18). The R&R discusses several deficiencies with Plaintiff's Amended Complaint and instructs Plaintiff that he may replead without them. (*Id.*). This Court notes that Plaintiff has already filed a Second Amended Complaint, (ECF No. 19). Although not procedurally proper, as this Court had not yet adopted the R&R granting leave to amend, the Court hereby accepts the Second Amended Complaint as a matter of judicial efficiency.

Accordingly, after careful consideration, it is hereby **ADJUDGED** that Judge Becerra's R&R, (ECF No. 18), is **AFFIRMED** and **ADOPTED** at stated herein:

1. Defendants' Motion to Dismiss, (ECF No. 12), is **GRANTED IN PART AND DENIED IN PART**.

2. Plaintiff's Amended Complaint, (ECF No. 6), is **DISMISSED WITHOUT PREJUDICE**.
3. Plaintiff's Second Amended Complaint, (ECF No. 19), is accepted as if properly filed. Defendants shall respond to Plaintiff's Second Amended Complaint **on or before January 30, 2024**.
4. Plaintiff's Application for Clerk's Entry of Default, (ECF No. 15), is **DENIED AS MOOT**.
5. Plaintiff's Motion for Leave to Amend, (ECF No. 11), is **DENIED AS MOOT**.

DONE AND ORDERED in Miami, Florida, this 16 day of January, 2024.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge Becerra
All Counsel of Record
David Arnold Gray, *pro se*